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**IDAPA 11
TITLE 04
CHAPTER 05**

11.04.05 - RULES GOVERNING ADVANCED DEPOSIT WAGERING

000. LEGAL AUTHORITY.

This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (3-29-10)

001. TITLE AND SCOPE.

01. Title. These rules of the Idaho State Racing Commission are cited as IDAPA 11.04.05, "Rules Governing Advanced Deposit Wagering." (3-29-10)

02. Scope. These rules govern advanced deposit wagering in Idaho. (3-29-10)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for these rules. (3-29-10)

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal Racing Commission actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (3-29-10)

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference into these rules. (3-29-10)

005. OFFICE -- OFFICE HOURS -- STREET ADDRESS -- MAILING ADDRESS -- TELEPHONE -- WEBSITE.

01. Physical Address. The central office of the Idaho State Racing Commission is located at 700 S. Stratford Drive, Meridian, Idaho. (3-29-10)

02. Office Hours. The central office is open 8 a.m. to 5 p.m., Mountain Time, Monday thru Friday, except holidays designated by the state of Idaho. (3-29-10)

03. Mailing Address. The mailing address for the central office is Idaho State Racing Commission, P.O. Box 700, Meridian, Idaho 83680-0700. (3-29-10)

04. Telephone Number. The telephone of the office is (208) 884-7080. (3-29-10)

05. Fax Number. The facsimile number of the office is (208) 884-7098. (3-29-10)

06. Website. The Racing Commission website is <http://www.isp.state.id.us/race>. (3-29-10)

006. PUBLIC RECORDS COMPLIANCE AND AVAILABILITY.

These rules are public records available for inspection and copying at the Idaho State Racing Commission central office or on the Racing Commission website. (3-29-10)

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Account. An account for advanced deposit wagering with a specific identifiable record of credits, debits, deposits, wagers, and withdrawals established by an account holder and managed by the advanced deposit wagering operator. (3-29-10)

02. Account Holder. A natural person who successfully completed an application and for whom the advance deposit wagering operator has opened an account. (3-29-10)

- 03. Advance Deposit Wagering.** A form of pari-mutuel wagering in which a natural person may deposit money in an account with an advance deposit wagering operator and then use the current balance to pay for pari-mutuel wagering. (3-29-10)
- 04. Advance Deposit Wagering Facility.** An actual location, equipment, and staff of an advance deposit wagering operator involved in the management, servicing and operation of advance deposit wagering. (3-29-10)
- 05. Advance Deposit Wagering Operator.** Those persons or entities licensed by the Idaho State Racing Commission with the authority to accept deposits and wagers, issue a receipt or other confirmation to the account holder evidencing such deposits and wagers, and transfer credits and debits to and from accounts. (3-29-10)
- 06. Applicant.** A natural person who has submitted an application to establish an account. (3-29-10)
- 07. Application.** The form or forms and other required submissions received from an applicant with the intent of opening an account. (3-29-10)
- 08. Confidential Information.** Confidential information includes: (3-29-10)
- a.** The amount of money credited to, debited from, withdrawn from, or present in any particular account holder's account; (3-29-10)
 - b.** The amount of money wagered by a particular account holder on any race or series of races; (3-29-10)
 - c.** The account number and secure personal identification code of a particular account holder; (3-29-10)
 - d.** The identities of particular entries on which the account holder is wagering or has wagered; (3-29-10)
 - e.** Unless otherwise authorized by the account holder, the name, address, and other information in the possession of the advance deposit wagering operator that would identify the account holder to anyone other than the Racing Commission. (3-29-10)
- 09. Corporation.** A body that is granted a charter recognizing it as a separate legal entity distinct from its members. (3-29-10)
- 10. Credits.** All positive inflow of money to an account. (3-29-10)
- 11. Debits.** All negative outflow of money from an account. (3-29-10)
- 12. Deposit.** A payment of money by cash, check, money order, credit card, debit card, or electronic funds transfer made by an account holder to the account holder's account. (3-29-10)
- 13. Natural Person.** Any person at least eighteen (18) years of age, but does not include any corporation, partnership, limited liability company, trust, or estate. (3-29-10)
- 14. Partnership.** A relationship between individuals for the achievement of a specific goal. (3-29-10)
- 15. Principal Residence Address.** That place where the natural person submitting an application for an account resides at least fifty percent (50%) of the time during the calendar year. (3-29-10)
- 16. Proper Identification.** A form of identification accepted in the normal course of business to establish that the person making a transaction is the account holder. (3-29-10)

17. Racing Commission. Three (3) member Idaho State Racing Commission created by Section 54-2503, Idaho Code, or its designee. (3-29-10)

18. Secure Personal Identification Code. An alpha-numeric character code chosen by an account holder as a means by which the advance deposit wagering operator may verify a wager or account transaction as authorized by the account holder. (3-29-10)

19. Source Market Fee. That part of a wager, made outside of the state by an Idaho resident, that is returned to the Racing Commission. (3-29-10)

20. Withdrawal. A payment of money from an account by the advance deposit wagering operator to the account holder when property requested by the account holder. (3-29-10)

21. Withdrawal Slip. A form provided by the advance deposit wagering operator for use by an account holder in withdrawing funds from an account. (3-29-10)

011. ABBREVIATIONS.
There are no abbreviations used in these rules. (3-29-10)

012. -- 014. (RESERVED).

015. LICENSING FOR ADVANCED DEPOSIT WAGERING.
No person may conduct advanced deposit wagering activities within Idaho prior to receiving an advance deposit wagering license from the Racing Commission. (3-29-10)

016. -- 019 (RESERVED).

020. ADVANCED DEPOSIT WAGERING LICENSE.
Any person may request a license from the Racing Commission to conduct advanced deposit wagering in accordance with Section 54-2512(5), Idaho Code, and these rules. As part of the request, such person must submit a detailed plan of how its proposed advance deposit wagering system would operate. The Racing Commission may require changes in a proposed plan of operations as a condition of granting a request. No subsequent changes in the system's operation may occur unless ordered by the Racing Commission or until approval is obtained from the Racing Commission after it receives a written request. (3-29-10)

021. -- 024. (RESERVED).

025. ADVANCE DEPOSIT WAGERING LICENSE APPLICATION.
An applicant for an advance deposit wagering operator license must provide the following information as part of the application: (3-29-10)

01. Legal Name. The legal name of the person seeking the license. (3-29-10)

02. Corporation. If the person seeking a license is a corporation: the names, addresses of all directors and officers, the date of incorporation and the place of incorporation;. (3-29-10)

03. Partnership. If the person seeking a license is a partnership: the names, addresses of all partners. If a partner is a corporation the date of incorporation, the place of incorporation and the names and addresses of all directors and officers. (3-29-10)

04. Race Tracks. The names of the race tracks the advance deposit wagering operator has contracts with that allow the applicant to provide wagering on the product. (3-29-10)

05. Financial Information. Financial information that demonstrates the financial resources to operate. (3-29-10)

06. Budget. A detailed budget showing anticipated revenue, expenditures and cash flows by month

during the license period. (3-29-10)

07. Number of Days. The number of days of planned operation during the fiscal year in which they are seeking to be licensed. (3-29-10)

026. DETAILED PLAN OF OPERATION FOR ADVANCED DEPOSIT WAGERING.

01. Detailed Plan of Operation. The detailed plan of operation for an advanced deposit wagering license must include, but is not limited to, the following information: (3-29-10)

- a.** The manner in which the wagering system will operate; (3-29-10)
- b.** Programs for responsible wagering; and (3-29-10)
- c.** Mitigation for the effects of advance deposit wagering on the source market in which the account holder resides. (3-29-10)

02. Requirements for Accounts Established and Operated for Persons Whose Principal Residence is Outside of the State of Idaho. The Racing Commission may require changes in a proposed plan of operations as a condition of granting a license. No subsequent changes in the system's operation may occur unless ordered by the Racing Commission or until approval is obtained from the Racing Commission after it receives a written request. (3-29-10)

027. -- 029. (RESERVED).

030. INVESTIGATIONS OR INSPECTIONS.
The Racing Commission may conduct investigations and inspections and request additional information from the advanced deposit wagerer as it deems appropriate. (3-29-10)

031. -- 039. (RESERVED).

040. CLAIMS OF NON-PAYMENT.

01. Claim of Non-Payment. An account holder, who is claiming that non-payment has occurred, must make a claim of non-payment to the Racing Commission. (3-29-10)

02. Investigation of Claim. The Racing Commission will investigate the claim and provide the advance deposit wagering operator with an opportunity to respond thereto and submit any supporting documents or evidence it needs to defend the claim. (3-29-10)

03. Commission Determination. If the Racing Commission determines that the account holder is entitled to restitution, the advance deposit wagering operator has ten (10) days to pay the amount determined by the Racing Commission. (3-29-10)

041. -- 049. (RESERVED).

050. PROMOTE AND ADVERTISE.
An applicant licensed under these rules may enter into such agreements, for what it deems good and sufficient reasons, that are necessary to promote, advertise, and further the sport of racing, or that may be necessary for the effective operation of interstate account wagering, including, without limitation, television production and telecommunications services. Such agreements are reviewed by the Racing Commission and may be denied. (3-29-10)

051. -- 059. (RESERVED).

060. OUT-OF-STATE PROVIDERS.
Any advance deposit wagering by an account holder with a provider outside of the State by telephone or other

electronic means is illegal, unless that provider is licensed by the Racing Commission and provides a source market fee of not less than ten percent (10%) of the handle forwarded monthly to the Racing Commission. (3-29-10)

061. -- 069. (RESERVED).

070. RESIDENCE OUTSIDE THE STATE OF IDAHO.

Requirements for the establishment and operation of accounts for individuals whose principle residence is outside of the state of Idaho must be set forth in the operation plan as stated in these rules. (3-29-10)

071. -- 079. (RESERVED).

080. ESTABLISHING AN ACCOUNT.

01. Establishing an Account. The application for establishing the account must be authorized in a manner acceptable to the Racing Commission and must include the applicant's: (3-29-10)

- a. Full legal name; (3-29-10)
- b. Principal residence address; (3-29-10)
- c. Telephone number of their permanent residence; (3-29-10)
- d. Social security number; and (3-29-10)
- e. Proper identification or certification demonstrating that the applicant is at least eighteen (18) years of age. (3-29-10)

02. Other Information. As needed, any other information required by the Racing Commission or the advance deposit operator must be included. (3-29-10)

081. ACCOUNT INFORMATION.

Each application for an advance deposit wagering account may be subject to verification. (3-29-10)

082. IDENTIFYING AN ACCOUNT NUMBER.

Each account must have a unique identifying account number. The identifying account number may be changed at any time by the advance deposit wagering operator provided the advance deposit wagering operator informs the account holder in writing prior to the change. (3-29-10)

01. Secure Personal Identification Code. The applicant must supply the advance deposit wagering operator with an alpha-numeric code to be used as a secure personal identification code when the account holder is placing an account wager. The account holder has the right to change this code at any time. (3-29-10)

02. Principle Residence. The principal residence address will be established by reliance on the information submitted on the application form provided and certified by the applicant. (3-29-10)

03. Upon Approval Account Holder Receives. The account holder will receive, at the time the account is approved: (3-29-10)

- a. A unique account identification number; (3-29-10)
- b. A copy of the advance deposit wagering rules and such other information and material that is pertinent to the operation of the account; and (3-29-10)
- c. Such other information as the advance deposit wagering operator or Racing Commission may deem appropriate. (3-29-10)

04. Name of Natural Persons. The advance deposit wagering operator will accept accounts in the

name of a natural person only. (3-29-10)

05. Nontransferable. The account is nontransferable between natural persons. (3-29-10)

083. -- 089. (RESERVED).

090. CLOSE OR REFUSE TO OPEN AN ACCOUNT.

The advance deposit wagering operator may close or refuse to open an account, for what it deems good and sufficient reason, and will order an account closed if it is determined that information that was used to open an account was false, or that the account has been used in violation of these rules. (3-29-10)

091. -- 094. (RESERVED).

095. ACCOUNT HOLDER RESPONSIBILITIES.

01. Personal Use Only. Accounts are for the personal use of the account holder. (3-29-10)

02. Security. The account holder is responsible for maintaining the secrecy of the account number and secure personal identification code. (3-29-10)

03. Account Losses. Except where the advance deposit wagering center or its employees or agents act without good faith or fail to exercise ordinary care, the advance deposit wagering center is not be responsible for any loss arising from the use by any other person or persons of an account holder's account. (3-29-10)

04. Notification of Account Security Breach. The account holder must immediately notify the advance deposit wagering center of a breach of the account's security. (3-29-10)

096. -- 099. (RESERVED)

100. OPERATION OF AN ACCOUNT.

01. Operator May Refuse Deposits. The advance deposit wagering operator may refuse deposits to an account for what it deems good and sufficient reason. (3-29-10)

02. Operator May Suspend or Close Account. The advance deposit wagering operator may suspend or close any account at any time provided that within five (5) business days of closing the account the advance deposit wagering operator returns to the account holder all monies then on deposit by sending it to the principal residence address as listed on the application. (3-29-10)

101. -- 104. (RESERVED).

105. CREDITS TO AN ACCOUNT.

After the initial establishment of an account, credits to an account may be made as follows: (3-29-10)

01. Deposits. Deposits to an account by an account holder must be made in the following forms: (3-29-10)

a. Cash given to the staff of an advance deposit wagering operator; (3-29-10)

b. Personal or cashier check, or money order given or sent to an advance deposit wagering operator; (3-29-10)

c. Charges made to an account holder's credit card or debit card upon the direct and personal instruction of the account holder. Such instructions may be given by telephone or any electronic device to the advance deposit wagering facility by the account holder if the use of the card has been approved by the advance deposit wagering operator; or (3-29-10)

d. Transfer by means of an electronic funds transfer from a monetary account controlled by an account holder to his account. The account holder is liable for any charges imposed by the transmitting or receiving entity with such charges to be deducted from the account. (3-29-10)

02. Credit for Winnings. Credit for winnings from wagers placed with funds in an account and credit for account wagers on entries that are scratched will be posted to the account by the advance deposit wagering operator. (3-29-10)

03. Accordance with Financial Institution. Checks, money orders and other negotiable instruments will be posted to the credit of the account holder in accordance with financial institution funds availability schedules. (3-29-10)

106. DEBITS TO AN ACCOUNT.

01. Debits to an Account. Debits to an account are made as follows: (3-29-10)

a. Upon receipt by the advance deposit wagering operator of an account wager, the advance deposit wagering center debits the account in the amount of the wager; or (3-29-10)

b. For fees for service or other transaction-related charges by the advance deposit wagering operator. (3-29-10)

02. Account Withdrawals. An advance deposit wagering operator may authorize a withdrawal from an account when one (1) of the following exists: (3-29-10)

a. The account holder of an account appears personally at the advance deposit wagering operators location and provides the following: (3-29-10)

i. Proper identification; (3-29-10)

ii. The correct secure personal identification code; and (3-29-10)

iii. A properly completed and signed withdrawal slip. (3-29-10)

b. The account holder sends to the advance deposit wagering operator a properly completed and signed withdrawal slip by any means, electronic or otherwise. (3-29-10)

i. Upon receipt of a properly completed and signed withdrawal slip, and if there are sufficient funds in the account to cover the withdrawal, the advance deposit wagering operator must, within five (5) business days of its receipt, send a check to the account holder. The check must be payable to the holder of the account and in the amount of the requested withdrawal. (3-29-10)

ii. If funds are not sufficient to cover the withdrawal, the account holder will be notified in writing and those funds in the account will be withdrawn and sent to the account holder within the five (5) business day time period. Electronic funds transfers may be used for withdrawals in lieu of a check at the discretion of the account holder and the advance deposit wagering operator subject to the same conditions described for electronic funds transfer credits. (3-29-10)

c. The advance deposit wagering operator may close accounts in which there has been no activity for at least six (6) months, returning funds remaining therein to the account holder at his principal residence address. (3-29-10)

d. In the event an account holder is deceased, funds accrued in the account will be released to the decedent's legal representative upon receipt of a copy of a valid death certificate, tax releases or waivers, probate court authorizations or other documents required by applicable laws. (3-29-10)

107. WAGERS IN EXCESS OF ACCOUNT BALANCE.

The advance deposit wagering operator will not accept wagers from an account holder in an amount in excess of the account balance. (3-29-10)

108. ACCOUNTS WILL NOT BEAR ANY INTEREST.

Monies deposited with the advance deposit wagering operator for advance deposit wagering must not bear any interest to the account holder. (3-29-10)

109. PAYMENTS ON WINNING PARI-MUTUEL WAGERS.

Payments on winning pari-mutuel wagers and credits for account wagers on entries which are scratched must be posted to the credit of the account holder as soon as practicable after the race is declared official. (3-29-10)

110. MAILING ADDRESS.

The principal residence address, provided in writing by the account holder at the time of application, is deemed to be the proper address for the purposes of mailing checks, statements of account, account withdrawals, notices, or other appropriate correspondence. The mailing of checks or other correspondence to the address given by the account holder is at the sole risk of the account holder. (3-29-10)

111. -- 119. (RESERVED).

120. POWERS OF THE RACING COMMISSION TO REVIEW AND AUDIT RECORDS.

The Racing Commission or its staff will be given access to all records and financial information of the advance deposit wagering operator for review and audit. The Racing Commission may require that the advance deposit wagering operator annually submit to the Racing Commission audited financial statements of the advance deposit wagering system. (3-29-10)

121. -- 124. (RESERVED).

125. CONFIDENTIAL INFORMATION.

No confidential information related to the placing of any wager or to the operation of the advance deposit wagering center may be divulged by any employee or agent of the advance deposit wagering center, except, as required by these rules, to the account holder or the Racing Commission, or as otherwise required by state or federal law or regulation or rules of the Racing Commission. (3-29-10)

126. -- 129. (RESERVED).

130. APPLICABLE LAWS, RULES, AND REGULATIONS.

All advance deposit wagering operators must adhere to all applicable state and federal laws, rules, and regulations. (3-29-10)

131. -- 989. (RESERVED).

990. PENALTIES.

Any person violating any of the provisions of these rules is subject to the penalties provided for in Title 54, Chapter 25, Idaho Code and any of the Racing Commission rules. (3-29-10)

991. -- 998. (RESERVED).

999. MINOR VIOLATIONS.

Nothing in these rules may be construed as requiring the Racing Commission to report minor violations when the Racing Commission believes that the public interest will be best served by suitable warnings or other administrative action. (3-29-10)

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